

Introduced by Senator Perata
(Principal coauthor: Assembly Member Nunez)

December 4, 2006

An act to amend Section 1771.7 of the Labor Code, relating to public works, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 18, as introduced, Perata. Public works: labor compliance programs.

Existing law requires an awarding body, as defined, that chooses to use funds from either the Kindergarten-University Public Education Facilities Bond Act of 2002 or the Kindergarten-University Public Education Facilities Bond Act of 2004 for a public works project to initiate and enforce, or contract with a 3rd party to initiate and enforce, a labor compliance program, as defined, for that public works project.

This bill would add the Kindergarten-University Public Education Facilities Bond Act of 2006 as a source of funds for a public works project that would require an awarding body, if it chooses to use those funds, to initiate and enforce, or contract with a 3rd party to initiate and enforce, a labor compliance program.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1771.7 of the Labor Code is amended to
2 read:

1 1771.7. (a) (1) An awarding body that chooses to use funds
2 derived from either the Kindergarten-University Public Education
3 Facilities Bond Act of 2002~~or~~, the Kindergarten-University Public
4 Education Facilities Bond Act of 2004, *or the*
5 *Kindergarten-University Public Education Facilities Bond Act of*
6 *2006* for a public works project, shall initiate and enforce, or
7 contract with a third party to initiate and enforce, a labor
8 compliance program, as described in subdivision (b) of Section
9 1771.5, with respect to that public works project.

10 (2) If an awarding body described in paragraph (1) chooses to
11 contract with a third party to initiate and enforce a labor compliance
12 program for a project described in paragraph (1), that third party
13 shall not review the payroll records of its own employees or the
14 employees of its subcontractors, and the awarding body or an
15 independent third party shall review these payroll records for
16 purposes of the labor compliance program.

17 (b) This section applies to public works that commence on or
18 after April 1, 2003. For purposes of this subdivision, work
19 performed during the design and preconstruction phases of
20 construction, including, but not limited to, inspection and land
21 surveying work, does not constitute the commencement of a public
22 work.

23 (c) (1) For purposes of this section, if any campus of the
24 California State University chooses to use the funds described in
25 subdivision (a), then the “awarding body” is the Chancellor of the
26 California State University. For purposes of this subdivision, if
27 the chancellor is required by subdivision (a) to initiate and enforce,
28 or to contract with a third party to initiate and enforce, the labor
29 compliance program described in that subdivision, then in addition
30 to the requirements imposed upon an awarding body by subdivision
31 (b) of Section 1771.5, the Chancellor of the California State
32 University shall review the payroll records described in paragraphs
33 (3) and (4) of subdivision (b) of Section 1771.5 on at least a
34 monthly basis to ensure the awarding body’s compliance with the
35 labor compliance program.

36 (2) For purposes of this subdivision, if an awarding body
37 described in subdivision (a) is the University of California or any
38 campus of that university, and that awarding body is required by
39 subdivision (a) to initiate and enforce, or to contract with a third
40 party to initiate and enforce, the labor compliance program

1 described in that subdivision, then in addition to the requirements
2 imposed upon an awarding body by subdivision (b) of Section
3 1771.5, the payroll records described in paragraphs (3) and (4) of
4 subdivision (b) of Section 1771.5 shall be reviewed on at least a
5 monthly basis to ensure the awarding body's compliance with the
6 labor compliance program.

7 (d) (1) An awarding body described in subdivision (a) shall
8 make a written finding that the awarding body has initiated and
9 enforced, or has contracted with a third party to initiate and enforce,
10 the labor compliance program described in subdivision (a).

11 (2) (A) If an awarding body described in subdivision (a) is a
12 school district, the governing body of that district shall transmit
13 to the State Allocation Board, in the manner determined by that
14 board, a copy of the finding described in paragraph (1).

15 (B) The State Allocation Board may not release the funds
16 described in subdivision (a) to an awarding body that is a school
17 district until the State Allocation Board has received the written
18 finding described in paragraph (1).

19 (C) If the State Allocation Board conducts a postaward audit
20 procedure with respect to an award of the funds described in
21 subdivision (a) to an awarding body that is a school district, the
22 State Allocation Board shall verify, in the manner determined by
23 that board, that the school district has complied with the
24 requirements of this subdivision.

25 (3) If an awarding body described in subdivision (a) is a
26 community college district, the Chancellor of the California State
27 University, or the office of the President of the University of
28 California or any campus of the University of California, that
29 awarding body shall transmit, in the manner determined by the
30 Director of the Department of Industrial Relations, a copy of the
31 finding described in paragraph (1) to the director of that
32 department, or the director of any successor agency that is
33 responsible for the oversight of employee wage and employee
34 work hours laws.

35 (e) Notwithstanding Section 17070.63 of the Education Code,
36 for purposes of this act, the State Allocation Board shall increase
37 the grant amounts as described in Chapter 12.5 (commencing with
38 Section 17070.10) of Part 10 of Division 1 of Title 1 of the
39 Education Code to accommodate the state's share of the increased

1 costs of a new construction or modernization project due to the
2 initiation and enforcement of the labor compliance program.

3 SEC. 2. This act is an urgency statute necessary for the
4 immediate preservation of the public peace, health, or safety within
5 the meaning of Article IV of the Constitution and shall go into
6 immediate effect. The facts constituting the necessity are:

7 In order to ensure that the improvements financed by the
8 Kindergarten-University Public Education Facilities Bond Act of
9 2006 begin in a timely manner, it is necessary that this act take
10 effect immediately.